

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

*Before:*

Chairman Omas,  
Vice Chairman Goldway,  
and Commissioner Covington

Classification and Fees  
for Confirm

Docket No. MC2002-1

OPINION AND RECOMMENDED DECISION  
  
APPROVING  
  
STIPULATION AND AGREEMENT



Washington, DC 20268-0001  
July 26, 2002

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### RECOMMENDED DECISION

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## I. INTRODUCTION AND SUMMARY

The Commission adopts, with relatively minor revisions to the proposed Domestic Mail Classification Schedule (DMCS) language, a Stipulation and Agreement (Settlement) filed in this proceeding as the basis for its opinion and recommended decision approving the Postal Service's Request to implement Confirm service, a new special service.<sup>1</sup>

Confirm, which uses a new barcode known as PLANET Codes, enables mailers to track automation-compatible letter-sized and flat mail.<sup>2</sup> Mail bearing a PLANET Code generates a data record when run on certain automated mail processing equipment. Confirm service requires no additional mail processing as the data are collected passively from existing mail processing equipment.

The new service is designed to benefit both mailers and the Postal Service. Confirm will provide mailers with valuable, near real-time information concerning the processing of their outgoing and incoming reply mail. The more accurate data will enable mailers to improve the effectiveness of their mailing operations, e.g., by fine-tuning their drop shipping plans, and realizing increased staffing and cash management efficiencies. The Postal Service, too, will benefit. The new service is responsive to mailers' needs, enhances the Postal Service's core business, and the data collected can be used to evaluate and improve its mail processing operations.

The Postal Service proposes to price Confirm service on a subscription basis using a three-tiered approach, denominated Silver, Gold, and Platinum, reflecting

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<sup>1</sup> Stipulation and Agreement, June 21, 2002. Concurrently, the Postal Service filed a motion on behalf of all participants requesting the Commission to issue an opinion and recommended decision based, *inter alia*, on the evidentiary record in this proceeding. Motion for Consideration of Stipulation and Agreement, June 21, 2002.

<sup>2</sup> See USPS-T-1 at 2, USPS-T-2 at 2, and Postal Service Request at 1. It is unclear whether a registration mark is applicable to Confirm. Generally, it was reflected in testimony offered in support of the proposal, but not in subsequent pleadings filed by the Postal Service. References to Confirm in this Opinion and Recommended Decision, including appendices hereto, do not include the registration mark solely as a matter of administrative convenience, devoid of any implications regarding the appropriateness of a registration mark.

different fees and levels of service. Although no unit fees are proposed, fees are structured to enable Confirm subscribers to purchase service expansions, *i.e.*, additional scans and additional identification codes, without graduating to the next tier.

The Postal Service filed its Request for a recommended decision April 24, 2002. A prehearing conference was held May 20, 2002, following which a procedural schedule was adopted allowing the participants ample time to pursue settlement negotiations. Those discussions proved fruitful and the Settlement, which is unopposed, was filed June 21, 2002. Signatories include Alliance of Nonprofit Mailers (ANM), American Postal Workers Union, AFL-CIO (APWU), Association for Postal Commerce (PostCom), Douglas F. Carlson (Carlson), Office of the Consumer Advocate (OCA), and the Postal Service.

The Commission commends the participants for resolving this proceeding via negotiations. This proposal is well suited for a negotiated result. Confirm represents a new service that holds promise for mailers and the Postal Service. Moreover, the underlying technology may provide the basis for future service enhancements. Early implementation will benefit mailers and the Postal Service. The Commission finds that as recommended herein Confirm is in the public interest.

## II. PROCEDURAL HISTORY

On April 24, 2002, the Postal Service filed its Request for a recommended decision on classification and fees for Confirm service.<sup>3</sup> The Commission noticed this filing in Order No. 1339 and, among other things, established May 16, 2002 as the due date for interventions. PRC Order No. 1339, April 29, 2002. In addition, the Commission made its hearing room available in advance of the prehearing conference scheduled for May 20, 2002, for the participants to engage in informal settlement

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<sup>3</sup> Request of the United States Postal Service for a Recommended Decision on Classification and Fees for Confirm, April 24, 2002.

discussions. *Id.* at 5. Pursuant to this invitation, the Postal Service convened a conference, open to all participants, to discuss settlement of this proceeding.<sup>4</sup>

Subsequent to the prehearing conference, the Presiding Officer established a procedural schedule based on the Postal Service's unopposed proposed schedule<sup>5</sup> that afforded the participants an opportunity to conclude settlement negotiations prior to the commencement of any hearings. P.O. Ruling MC2002-1/1, May 30, 2002.

In response to the Presiding Officer's direction, Tr. 1/5, the Postal Service filed a series of reports addressing the status of ongoing settlement discussions. The last of the three reports, filed June 13, 2002, informed the Commission that a near unanimous settlement had been achieved. Concomitantly, the Postal Service moved to suspend the procedural schedule. See Third Settlement Report of the United States Postal Service and Motion to Suspend Procedural Schedule, June 13, 2002. No participant opposed the motion and, following submission of the Settlement on June 21, 2002, the Presiding Officer granted the motion to suspend and adopted a revised procedural schedule, providing participants with an opportunity to designate record evidence and to comment on the Settlement. P.O. Ruling MC2002-1/4, June 24, 2002.<sup>6</sup>

Three participants submitted comments in support of the Settlement: the Postal Service, APWU, and OCA. The Postal Service extols the operational benefits of Confirm to it and mailers. See Comment of United States Postal Service in Support of

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<sup>4</sup> Notice of United States Postal Service's Intention to Conduct Settlement and Technical Conference, May 15, 2002. At the conference, the Postal Service made the Confirm Program Manager, Paul Bakshi, available to answer questions concerning the proposed service.

<sup>5</sup> See Amended Notice of United States Postal Service of Proposed Procedural Schedule, May 17, 2002.

<sup>6</sup> In response to this Ruling, APWU and OCA filed designations of written cross-examination and interrogatory responses. APWU filed four designations of written cross concerning witnesses Bakshi, Lubenow, and Nieto as well as institutional responses. See, e.g., American Postal Workers Union, AFL-CIO Designation of Written Cross-Examination of USPS witness Bakshi, July 1, 2002. OCA designated certain interrogatory responses. See Office of the Consumer Advocate Designation of Interrogatory Responses, July 1, 2002. Thereafter, the Postal Service filed declarations supporting designated direct testimony, written cross-examination, and interrogatory responses. See Declarations Supporting Designated Direct Testimony, Written Cross-Examination, and Interrogatory Responses and Copies of Applicable Direct Testimonies of the United States Postal Service, July 3, 2002.

Settlement, July 9, 2002, at 4-5. It also summarizes the testimony submitted in support of its proposal, focusing on witness Nieto's cost estimates, witness Rothchild's demand projections, and witness Keifer's pricing proposal. *Id.* at 5-10.

APWU expresses general support for the Settlement, noting in particular that it supports the proposed pricing, but also raising concerns over the costing of the proposed service. Statement of American Postal Workers Union, AFL-CIO Concerning Settlement, July 9, 2002. APWU notes that certain costs have been excluded from Confirm's total costs, illustratively citing information technology (IT) network costs, including periodic upgrades to networks and mail processing equipment. *Id.* at 1. APWU also comments on Confirm's relative contribution to institutional costs, asserting that a greater contribution would be warranted "[i]f in future cases the networks and upgrades are not considered costs of Confirm." *Ibid.*

OCA also expresses its general support for the Settlement, emphasizing the importance of paragraph 4, which sets forth the Postal Service's undertaking to explore development of a consumer oriented product, to its support for the Settlement. See Office of the Consumer Advocate Comments on Stipulation and Agreement, July 9, 2002, at 1-2 (OCA Settlement Comments). OCA devotes the bulk of its comments to the role of Confirm. *Id.* at 3-5. OCA believes that the Postal Service should aggregate all Confirm data for use as an analytical tool, e.g., to identify local or systemwide trends. *Id.* at 3-4. While it recognizes that the Postal Service envisions a more limited role for Confirm, OCA requests the Commission to prompt the Postal Service to begin aggregating the data upon approval of the service. *Id.* at 5.

The Postal Service filed a response to these comments. Reply Comment of United States Postal Service in Support of Settlement, July 12, 2002. At the outset, the Postal Service defends Nieto's costing approach as consistent with longstanding principles of cost causality. *Id.* at 1. As for future cases, the Service notes that if a causal link is established regarding the provision of Confirm service, its underlying cost presentation "would necessarily change." *Ibid.* In any event, the Postal Service

concludes that coverage issues must be assessed in light of the statutory criteria. *Id.* at 1-2.

The Postal Service takes issue with OCA's contention that aggregating Confirm data can be accomplished at negligible expense. *Id.* at 2. According to the Postal Service, longer retention of the scan data, the implicit premise of OCA's assertion, would require the Postal Service to incur additional, arguably substantial costs.<sup>7</sup> The Postal Service appears to agree with OCA's central point, that Confirm data may ultimately prove useful in new applications. Nonetheless, it concludes that it does not expect to devote additional resources to accommodate longer retention of scan data until presented with a more compelling business need. *Id.* at 2-3.<sup>8</sup>

The final noteworthy procedural matter is Notice of Inquiry No. 1, which set forth alternative DMCS language to that contained in the Postal Service's Request. Notice of Inquiry No. 1 Concerning Proposed DMCS Changes, May 16, 2002 (NOI No. 1).<sup>9</sup> As indicated in the notice, the revisions were designed to describe the proposed service "more fully and in a fashion more compatible with other services included in the DMCS." *Id.* at 2.

The Postal Service and OCA commented on NOI No. 1. Briefly, the Postal Service objects to portions of the alternative language, in particular, the shaped-based limitations (NOI § 991.21), the listing of permissible combined special services (NOI § 991.41), and inclusion of specific references to details that may not be permanent requirements (*e.g.*, NOI § 991.31 concerning the Advance Shipping Notice). See Comments of United States Postal Service on Notice Of Inquiry No. 1 Concerning

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<sup>7</sup> *Id.* at 2. The Postal Service loosely identifies the costs related to the current configuration as "two sets of servers, each of which costs several hundred thousand dollars." *Ibid.*

<sup>8</sup> OCA's suggestion that the Postal Service use Confirm data to generate regular systemwide reports is well intended. It appears to dovetail neatly with a principal purpose of Confirm -- to serve "as a management tool . . . for assessing and correcting mail processing efficiencies." USPS-T-1 at 12; see also USPS-T-2 at 8. Although it disputes OCA's cost claims, the Postal Service agrees that Confirm may serve as a useful analytical tool beyond its current configuration. Management is urged to explore that possibility. The results may be enlightening and lead to improved operational efficiencies.

<sup>9</sup> Reference to DMCS provisions proposed in NOI No. 1 is abbreviated herein as "NOI § 991.xx," for example, NOI § 991.21.

Proposed DMCS Changes, June 7, 2002 at 3-9. (Postal Service NOI Comments). The Postal Service attached to its comments revised DMCS language, representing an amalgam of its original proposal, NOI No.1, and settlement discussions with participants. *Id.* at 10-11.

OCA notes that the NOI alternative "significantly improve[s] the overall presentation of the Confirm service in the DMCS." Office of the Consumer Advocate Comments on Notice of Inquiry No. 1 Concerning Proposed DMCS Changes, June 7, 2002, at 2 (OCA NOI Comments). OCA addresses those proposed revisions that differ from the NOI alternatives, concluding, for various reasons including prompt settlement, that the Postal Service's language is acceptable, e.g., that customer interests will not be diminished by proposed § 991.41 concerning the availability of other special services, and further that mailers are unconcerned about omitting reference to the 15-day retention term. *Id.* at 3-6.

### III. SUMMARY OF PROPOSAL

Confirm service employs PLANET Codes, a new barcode, to help mailers track automation-compatible letter-size and flat mail. USPS-T-1 at 2; *see also* USPS-T-2 at 2. Data are collected for outgoing, Destination Confirm, and incoming, Origin Confirm, mail and made available electronically to subscribers, providing them with near real-time information concerning the processing of their mail. The data provided identify the facility and operation, the processing date and time, and the numeric value of the PLANET Code and POSTNET Code. *See* USPS-T-1 at 4, and witness Bakshi's response to OCA/USPS-3 and OCA/USPS-8.

Mail bearing a PLANET Code generates a data record when run on certain automated mail processing equipment through the following operations: outgoing primary, outgoing secondary, incoming primary, incoming secondary, SCF sort plan, and first and second pass of delivery point sequence. Witness Bakshi's response to POIR No. 1, question 1, May 17, 2002; *see also* response of witness Bakshi to



OCA/USPS-1, revised May 16, 2002, which identifies the machines capable of reading a PLANET Code, including DBCS, DBCS/OSS, DBCS/OCR, DBCS/TEST, DIOSS, MPBCS, OSS/TEST, CSBCS, AFISM100, FSM1000, AND FSM881. The Postal Service anticipates that typically each piece of "Confirm mail" will receive about 3 scans.

Witness Bakshi's response to POIR No. 1, question 2, May 17, 2002. Confirm's data collection, however, will not significantly affect the manner in which mail is processed. USPS-T-1 at 10. Data are collected passively from existing mail processing equipment. Thus, Confirm requires no additional mail processing. *Id.* at 10-11.

Confirm is designed to provide benefits to both mailers and the Postal Service. The new service will enable mailers to obtain valuable, near real-time information regarding the processing of their mail that can be used to improve efficiencies and customer service. Thus, for example, Destination Confirm may inform subscribers that customers are about to receive bills, notices, offers, and publications. See USPS-T-1 at 1-2 and USPS-T-2 at 6-7. More accurate delivery data will enable mailers of Standard Mail or Publications to fine-tune their drop shipping plans. USPS-T-2 at 6-7. In addition, the tracking information should enable mailers to closely coordinate marketing efforts, thereby generating increased response rates. USPS-T-1 at 1; USPS-T-2 at 7. Similarly, Origin Confirm may provide users with important information concerning incoming reply mail, e.g., payments and fulfillment of orders, which should allow them to realize increased staffing and cash management efficiencies. See USPS-T-1 at 2; USPS-T-2 at 7.

From the Postal Service's perspective, Confirm is perceived as a value-added service, responsive to mailers' needs while also enhancing its core business. Furthermore, the data collected will be available to enable the Postal Service to evaluate and improve its operational efficiency. USPS-T-1 at 7-8, 11-12.

Witness Keifer sponsors the classification and pricing proposals for Confirm. USPS-T-5. Keifer proposes subscription based pricing, novel to postal products, under which subscribers would pay a fixed fee for a specified period of service. No additional transaction or unit fees would be charged. To accommodate various demand levels,

Keifer proposes three subscription tiers, Silver, Gold, and Platinum, reflecting different fees and service features as follows:<sup>10</sup>

- (1) The fee for the Silver subscription is \$2,000 for a term of three months. The service includes the use of one identification (ID) code and up to 15 million scans. Silver subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first, for a fee of \$500 per ID code. In addition, subscribers may license the use of additional scans in blocks of 2 million scans at any time prior to expiration of the subscription for a fee of \$500.
- (2) The fee for the Gold subscription is \$4,500 for a term of twelve months. The service provides the use of one ID code and up to 50 million scans. Gold subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first, for a fee of \$500 per ID code. In addition, Gold subscribers may license the use of additional scans in blocks of 6 million scans at any time prior to expiration of the subscription for a fee of \$750.
- (3) The fee for the Platinum subscription is \$10,000 for a term of twelve months. It includes the use of three ID codes and unlimited scans. Platinum subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first, for a fee of \$500.

A Gold subscription may be upgraded to Platinum any time prior to expiration of the Gold subscription upon payment of the difference in the respective subscription fees. Upgrading does not extend the duration of the underlying subscription.

Witness Nieto (USPS-T-3) and witness Rothschild (USPS-T-4) sponsored the cost estimates and volume projections underlying the Postal Service's proposal, respectively. Witness Nieto presents estimated test year 2003 Confirm costs. She begins with an analysis of Confirm's principal cost components, namely, information technology, e.g., depreciation of software and hardware expenditures; program support,

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<sup>10</sup> USPS-T-5 at Attachment C.

e.g., consulting contractor costs; field support, e.g., helpdesk costs; and marketing e.g., advertising and promotional expenditures. USPS-T-3 at 2-4 and, for greater detail, 8-20. Witness Nieto concludes, based on principles of cost causality, that most of Confirm's costs are product specific and not variable with volume. *Id.* at 2-4. Specifically, she finds that total Confirm TY 2003 incremental costs are \$5,034,335, with product specific costs comprising \$3,942,242. *Id.* at 3. For purposes of estimating costs she excludes certain network and development expenses as ongoing or sunk costs that might be viewed as associated with Confirm. See, for example, *id.* at 8 and 15-16.

Witness Rothschild provides demand projections for Confirm service based on market research of mailers participating in the Confirm pilot program plus certain other large volume mailers, specifically, mailers of First-Class or Standard A Mail with FY 2000 permit imprint expenses greater than \$500,000. USPS-T-4 at 3. These groups of mailers were merged, with the combined file stratified into four mailing groups: Confirm registrants, First-Class Mail only, Standard A Mail only, and those mailing both First-Class Mail and Standard A Mail. An attempt was made to contact each of the 4,734 companies included in the sampling frame. *Ibid.* See also Library Reference USPS-LR-1 at 3.

Two price point sets were tested. Survey respondents were asked several questions about each price point set, including, for example, the likelihood of purchasing one or more subscription, the type of subscription, and the number of additional scans and ID codes they expected to purchase in 2002. Library Reference USPS-LR-1 at 6-7. To calibrate demand estimates, respondents were asked their likelihood of purchasing at least one subscription on a scale of 0 to 100 percent. *Id.* at 18. Based on the Postal Service's instructions, witness Rothschild adjusted these results so that only those respondents indicating an 80 percent or greater likelihood of purchasing at least one subscription were included in the estimates. To estimate the number of subscriptions, additional scans, and additional ID Codes that would be purchased, witness Rothschild multiplied the respondents' answers by a percentage equal to their likelihood of

purchasing at least one subscription. *Ibid.* Based on her research, witness Rothschild projected demand for each subscription tier, quantifying the number of subscriptions, additional scans, and additional ID Codes. *Id.* at 20; see also USPS-T-4 at 8.<sup>11</sup>

Witnesses Keifer and Nieto rely on Rothschild's estimates for purposes of their cost and revenue projections. USPS-T-5 at 9. Under these assumptions, witness Keifer's proposed fees yield annual revenues of \$9.2 million, reflecting a cost coverage of 182 percent. *Id.* at 10.

Keifer also reviews the classification criteria applicable to Confirm service. *Id.* at 14-16. In summary, he concludes that Confirm serves as a valuable service enhancement, providing mailers with, among other things, an improved understanding of their mail flows as well as a tool to more effectively manage their direct mail campaigns. Confirm also holds value for the Postal Service, enabling it to monitor mail flows in real time and detect mail processing bottlenecks. *Ibid.* Having evaluated the proposal in light of the statutory criteria, Keifer finds that it is fair and equitable. *Id.* at 16.

#### IV. SUMMARY OF THE STIPULATION AND AGREEMENT

The Settlement is supported by all participants, except David B. Popkin, who does not oppose it.<sup>12</sup> Signatories include ANM, APWU, Carlson, OCA, PostCom, and the Postal Service.

The Settlement, which is patterned after previously filed classification settlements, is divided into two parts. Part I, Background, identifies the Postal Service's Request, including its filing date and docket designation. It also cites the testimony of witnesses Bakshi (USPS-T-1) and Keifer (USPS-T-5) as providing the basis for the Request.

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<sup>11</sup> According to the latest available information, 275 mailers have applied for Confirm service. Witness Bakshi's response to APWU/USPS-T1-3, June 12, 2002.

<sup>12</sup> See Motion for Consideration of Stipulation and Agreement, June 21, 2002, at 1.

The substance of the Settlement is set forth in Part II, Terms and Conditions, consisting of 10 numbered paragraphs. Paragraph 1 provides that the Settlement represents a negotiated agreement of all issues raised by the Postal Service's Request in this docket.

Paragraph 2 represents the signatories' agreement, limited to this proceeding only, that the Postal Service's Request, including the supporting testimony and materials and designated interrogatory responses, provide substantial evidence to support a decision "recommending the changes to the [DMCS] § 991 and [Fee Schedule] 991 proposed by the Postal Service in Docket No. MC2002-1." In addition, proposed DMCS language and proposed fee schedule were attached to the Settlement.

Paragraph 3 provides that, for purposes of this proceeding, the signatories stipulate that the proposed DMCS and fee schedule satisfy the policies of the Postal Reorganization Act, 39 U.S.C. § 101 *et seq.*, and sections 3622 and 3623, in particular.

Paragraph 4 sets forth the Postal Service's undertaking to explore a consumer oriented product based on PLANET Code technology. As part of that undertaking, the Postal Service is to provide a status report to all participants within six to twelve months after implementation of Confirm service concerning development of such a product and the likelihood it may be pursued. In addition, the Postal Service intends to evaluate whether subscription pricing satisfies customers' needs and whether it warrants changing.

Paragraph 5 sets forth the signatories' agreement that the Settlement represents a total and final settlement of Docket No. MC2002-1, with the signatories forgoing the opportunity to file further pleadings or testimony in this proceeding, subject to limited exceptions, *e.g.*, pleadings or testimony requested by the Commission.

Paragraph 6 provides each signatory an opportunity to withdraw from the Settlement if the Commission issues a Recommended Decision that deviates from the classification and fees proposed in the Settlement, or if the Governors fail to approve a Recommended Decision adopting the classification and fees proposed by the Postal

Service. Any withdrawal by one signatory or more shall not affect operation of the Settlement regarding the remaining signatories.

Paragraph 7 underscores that the Settlement pertains only to this proceeding and further provides that the Settlement does not bind signatories to any principle, e.g., ratemaking, classification, or legal interpretation, "that may underlie, or be thought to underlie, [it]."

Paragraph 8 provides that for purposes of future proceedings or negotiations, other than those involving enforcing or interpreting the Settlement, no signatory shall be deemed bound or prejudiced by it. Nor shall any matter presented in this proceeding in the Postal Service's Request, any Commission Recommended Decision, or any decision of the Governors be entitled to precedential effect.

In paragraph 9, the signatories request the Commission to act expeditiously in issuing a Recommended Decision adopting the proposed DMCS language and fee schedule.

Paragraph 10 provides that the Settlement represents the entire agreement among the signatories, superseding any understandings or representations not specifically included.

## V. FINDINGS AND CONCLUSIONS

The Settlement is unopposed. All participants but one are signatories to it. Among the signatories, three, the Postal Service, OCA, and APWU, submitted comments in support of the Settlement. The non-signatory did not submit any comments regarding the Settlement.

Based on a review of the record, the Commission finds that all participants have had an opportunity to participate in the settlement discussions that resulted in the Settlement agreement filed June 21, 2002. Further, the Commission concludes that all participants have had an adequate opportunity to comment on the appropriateness of the Settlement as a resolution of the issues raised in this case.

In addition, the Commission has reviewed the evidentiary record pursuant to its statutory obligation under the Postal Reorganization Act, 39 U.S.C. §§ 101 *et seq.* Among other things, this entailed an examination of the testimony of witnesses Bakshi, Lubenow, Nieto, Rothschild, and Keifer, their responses to discovery requests, and related materials filed in support of the Postal Service's proposal, including its Request. Based on this review, the Commission concludes that the record provides substantial evidence to support its decision to recommend that the Postal Service offer Confirm as a new service at the proposed fee levels.

This conclusion is possible because the Settlement specifically provides that the analysis supporting the attribution of costs to Confirm has no precedential status. As noted by APWU the suggested treatment of several types of ongoing expenses, as well as the treatment of sunk costs, is potentially controversial. The Commission affirms that it considers these issues open, and the subject for review in subsequent proceedings.

The Commission further finds that the suggested classification language appended to the Settlement is deficient in certain respects. As a result, the Commission finds it necessary to modify certain provisions consistent with its responsibilities under the Act, and section 3623 in particular. With those modifications, the Commission concludes that the recommended classification and fee changes for Confirm satisfy the policies of the Act. The Commission therefore recommends to the Governors of the Postal Service that the DMCS be amended as set forth in Appendices One and Two of the accompanying Recommended Decision.

The Postal Service is commended for offering a new service that appears to provide tangible benefits to mailers and the Service. Moreover, the underlying technology may support additional uses over time, leading to other service enhancements with the potential for improving mailers' and the Postal Service's operational efficiencies.

In NOI No.1, the Commission expressed concerns about the DMCS language initially proposed by the Postal Service. Principally, the Commission was concerned that certain provisions were unnecessarily vague. NOI No.1 at 2. In addition, based on

its preliminary review, the Commission indicated the possibility of conforming the proposed language more closely to existing DMCS practice. Accordingly, the Commission circulated for participants' comments proposed revisions and reformatting of the DMCS language "designed to describe Confirm service more fully and in a fashion more compatible with other services included in the DMCS." *Ibid.*

The Postal Service's response to NOI No.1 is helpful for several reasons. First, the Postal Service clarifies the nature of Confirm service.<sup>13</sup> Second, the Postal Service elaborates on its concerns with specific provisions. See Postal Service NOI Comments at 3-10. Finally, the Postal Service offers revised DMCS classification language that has been made part of the Settlement. While this revised language represents an improvement over the Postal Service's initial proposal, certain revisions remain unacceptably vague or incomplete. The Commission has not rejected each revision differing from its suggested language. It has carefully considered the Postal Service's position, adopting the revised provisions with two exceptions. The resulting recommended classification language establishes the legal parameters for the service, while affording the Postal Service much of the flexibility it desires.

The Commission appreciates the efforts by all participants to fashion an unopposed settlement resolving all issues in this proceeding. The Postal Service, as settlement coordinator, deserves special recognition. The Commission does not lightly disregard the signatories' views and it is well aware of the option available to signatories should the Commission not approve the Settlement as filed. See Settlement at § II, ¶ 6. Nevertheless, implicit in that provision is the recognition that the Commission may,

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<sup>13</sup> In clarifying the manner in which Confirm is intended to operate, the Postal Service expands on testimony offered in support of its Request. In doing so, it criticizes as erroneous the NOI's characterization of the service as being able to track *individual* automation-compatible mail. Postal Service NOI Comments at 2, n.5 (emphasis by the Postal Service); see also *id.* at 7, n.12. This criticism appears to be misplaced as it overlooks that witness Bakshi described the proposed service in these very terms, a description reiterated in the Postal Service's Request. See USPS-T-1 at 2 and Postal Service's Request at 1. Nonetheless, the Postal Service clarifies that under the Confirm business model not all PLANET-Coded pieces will be scanned. Its and the mailers' expectations are that many or most Confirm pieces will be scanned, with data thereafter available to subscribers. Proposed fees have been designed to reflect large-scale differences in aggregate number of scans, not individual piece handlings. Postal Service NOI Comments at 2.



for whatever reason, be unable to accept the Settlement without modification. That pertains in this instance as the Commission has concluded that certain proposed classification provisions are unacceptable. The principal differences are addressed below.

*Section 991.21.* Regarding availability, NOI § 991.21 indicates that Confirm service is available to subscribers for automation compatible letter-sized and flat mailpieces entered as First-Class Mail, Standard Mail, or Periodicals. The Postal Service criticizes this provision on several grounds and proposes it be revised to read simply that “Confirm is available to subscribers authorized by the Postal Service under 991.” This proposed revision is unacceptably vague, providing no information to mailers regarding either the type or class of mail qualifying for the service. Moreover, the Postal Service’s criticisms of NOI § 991.21 are not compelling.

At the outset, the Postal Service faults referencing shape as a qualifying criterion, asserting that it creates “a significant limitation and incompletely and incorrectly describes Confirm.” Postal Service NOI Comments at 7 (footnote omitted). Citing witness Keifer’s testimony, the Postal Service states that reference to shape in the DMCS creates an inconsistency with Confirm service as offered because any PLANET-Coded piece may be scanned, including parcels if processed on flat sorting machines notwithstanding their nominal qualification as parcels. *Ibid.*<sup>14</sup>

Second, the Postal Service argues that the reference to “mailpieces” in NOI § 991.21 misconstrues the nature of Confirm service, contending that it is “a subscription service that scans most PLANET-Coded pieces at a level that either does, or does not, make business sense to potential customers.” *Id.* at n.12.<sup>15</sup>

Finally, the Postal Service characterizes the listing of First-Class Mail, Standard Mail, and Periodicals in NOI § 991.21 as more restrictive than language it initially

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<sup>14</sup> Citing a “deeper” concern based, in part, on the potential use PLANET Codes, the Postal Service also states that any PLANET-Coded piece that is scanned, regardless of shape, accrues to the subscriber’s account. *Ibid.*

<sup>15</sup> The Postal Service correctly notes that NOI § 991.21 omitted reference to cards. *Id.* at n.11. The omission was inadvertent.

suggested (in § 991.21) which provided that Confirm “can be associated with” mail in those very same classes.<sup>16</sup> Based on the foregoing, the Postal Service concludes that “the prudent course appears to be avoiding any mention of classification schedules at all.” *Id.* at 8.

The Postal Service’s solution, to define availability without reference to any of the characteristics of service or classes or mail, is untenable. Apart from its failure to define availability in any meaningful way, the proposed revision represents an extreme response to a relatively minor problem. That parcels may occasionally be processed on flat sorting equipment does not justify eliminating any reference to classes of mail. As part of its initial classification proposal, the Postal Service proposed that Confirm “can be associated with mail in the following classification schedules: First-Class Mail, Standard Mail, and Periodicals.” Request at Attachment A § 991.21. It now attempts to distance itself from this language by claiming that language is inconsistent with Confirm service as offered. Postal Service NOI Comments at 7.<sup>17</sup> The attempt is unavailing.

In light of the Postal Service’s concerns that parcels may be scanned, the Commission has determined to include reference to Package Services in § 991.21 while eliminating any reference to shape. The Postal Service’s implementing regulations should alert mailers to the possibility that PLANET-Coded parcel mail may be scanned if processed on flat sorting equipment and, if so, that the scan will accrue to the subscriber’s account.<sup>18</sup> As adopted by the Commission, § 991.21 reads:

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<sup>16</sup> *Id.* at 7. The Postal Service’s reference to its “proposed DMCS § 991.11” is, it would appear, intended to refer to § 991.21.

<sup>17</sup> The Postal Service also asserts, without elaboration, that the language “can be associated with” is less restrictive than NOI § 991.21 which also identifies the same classes of mail, namely First-Class, Standard, and Periodicals. The distinction is without difference.

<sup>18</sup> An alternative approach referencing only those classes (First-Class, Standard, and Periodicals) identified by Postal Service witnesses as qualifying for Confirm was also considered. *See, e.g.*, USPS-T-1 at 2-3 and USPS-T-5 at 14-15. Had it been adopted, similar regulations would be needed to likewise alert subscribers.

Confirm service is available to subscribers authorized by the Postal Service under schedule 991 for automation compatible mail entered under the following classification schedules:

**Classification Schedule**

a.	First-Class Mail, including Priority	210
b.	Standard Mail	310
c.	Periodicals	410
d.	Package Services	510

As is evident, this provision draws on the Postal Service's initial proposal, the Settlement provision, and the NOI. It appropriately describes the availability of the service, identifying the type of mail and classes to which it applies.

*Section 991.3.* The Postal Service proposes to consolidate mailer requirements from the three sections contained in the NOI to one. It objects to incorporating the current requirement that subscribers use an Advance Shipping Notice, arguing that it is not a permanent requirement and that an alternative is being studied. Postal Service NOI Comments at 9. In addition, it argues that there is no requirement for Confirm mail to bear a POSTNET Code.<sup>19</sup> Thus, it urges that requirement be deleted. *Id.* at 10.

The proposed revisions to § 991.31 are acceptable. They represent a reasonable consolidation of the requirements set forth in the NOI §§ 991.31 and 991.33. For the time being, however, NOI § 991.32 will be retained, modified to delete the reference to POSTNET Codes. While arguably PLANET Codes could be considered within the scope of revised § 991.31, undeniably they represent a fundamental mailing requirement. Accordingly, the Commission concludes they warrant inclusion in the DMCS at the commencement of the service.

*Section 991.41.* Although the Commission has determined to accept revised § 991.41, the proposal merits brief comment. NOI § 991.41 proposed to follow the

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<sup>19</sup> Some confusion may have arisen given testimony which indicates that to use Confirm mailers must apply both a PLANET barcode and POSTNET barcode to their mail. USPS-T-1 at 3.

Commission's preferred practice by listing the other special services with which Confirm may be combined. The Postal Service opposes listing the combination of services, as it has in recent proceedings, believing that such listings should be employed only to identify any special service that serves as a prerequisite for another special service. Postal Service NOI Comments at 3. The Postal Service suggests that the DMCS is an inappropriate vehicle for listing combinations of special services. For example, it argues that the listings are unduly complicated to maintain in the DMCS, that doing so inhibits the Postal Service's flexibility, and that customers rely on the Domestic Mail Manual (DMM), not the DMCS, for such information. *Id.* at 4-6, and 8-9.

While the Commission prefers the practice of listing combinations of special services, it will not, in this instance, modify § 991.41 of the Settlement, which provides "Confirm neither precludes nor requires any other special services." Confirm is a new service designed generally for large volume commercial mailers. See, e.g., USPS-T-1 at 2; see also Request at 1. These are sophisticated mailers, sufficiently knowledgeable in postal matters so as not to require that the combinations be listed in the DMCS. Moreover, as OCA notes, the proposed provision is broad enough to allow the availability of other services to be determined on their own terms. OCA NOI Comments at 4.

In arguing against including special service combinations in the DMCS, the Postal Service promotes the DMM as the source of mailers' information concerning postal services. Postal Service NOI Comments at 4-5. The Commission does not dispute the DMM's significant role reflecting the implementing regulations concerning all domestic postal services. It misses the point, however, to imply that the DMCS and DMM necessarily serve the same roles. The DMCS reflects the legal parameters of the service, while the DMM reflects implementation of that service.

Finally, although the Postal Service may prefer unfettered flexibility to specify combinations of special services, it is hyperbole to suggest that limited classification proceedings may so impair the Service's flexibility as to delay offering service

improvements to mailers. Consistent with the statute and its Rules of Practice, the Commission stands ready to act promptly on any Postal Service Request.

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

Before Commissioners: George A. Omas, Chairman;  
Ruth Y. Goldway, Vice-Chairman  
and Dana B. "Danny" Covington, Sr.

Classification and Fees  
for Confirm

Docket No. MC2002-1

RECOMMENDED DECISION

(Issued July 26, 2002)

The Commission, having considered the Stipulation and Agreement filed and entered into the record of this proceeding, has issued its Opinion thereon. Based on that Opinion, which is attached hereto and made a part hereof,

It is ordered:

1. The Postal Service's June 21, 2002 motion for consideration of stipulation and agreement is granted and the Stipulation and Agreement filed by the Postal Service is accepted as set forth in the foregoing Opinion.
2. The Commission's Opinion and this Recommended Decision shall be transmitted to the Governors of the Postal Service and the Governors shall thereby be advised that the proposed fees (set forth in Appendix One) and the proposed amendment to the DMCS (set forth in Appendix Two) are in accordance with the policies of title 39, United States Code and the factors set

Docket No. MC2002-1

forth in §§ 3622(b) and 3623(c) thereof; and they are hereby recommended to the Governors for approval.

By the Commission.

(S E A L)

  
Garry J. Sikora  
Acting Secretary

## RECOMMENDED ADDITIONS TO FEE SCHEDULE

## FEE SCHEDULE 991

## CONFIRM

Description	Fee
<b>Silver Subscription</b>	
Subscription Fee (3 months)	\$2,000.00
Additional ID Codes (lesser of 3 months or end of subscription term)	\$500.00
Additional Scans (block of 2 million)	\$500.00
<b>Gold Subscription</b>	
Subscription Fee (12 months)	\$4,500.00
Additional ID Codes (lesser of 3 months or end of subscription term)	\$500.00
Additional Scans (block of 6 million)	\$750.00
<b>Platinum Subscription</b>	
Subscription Fee (12 months)	\$10,000.00
Additional ID Codes (lesser of 3 months or end of subscription term)	\$500.00



**RECOMMENDED ADDITIONS TO  
THE DOMESTIC MAIL CLASSIFICATION SCHEDULE**

**990 MAILPIECE INFORMATION**

**991 CONFIRM**

**991.1 Definition**

991.11 Confirm service permits subscribing customers to obtain information, electronically in near real time, regarding when and where mailpieces undergo barcode scans in mail processing operations. Scan information is not guaranteed for every piece of qualifying mail. Destination Confirm is for a subscriber's outgoing mail; Origin Confirm is for reply mail incoming to the subscriber.

991.12 Mailers may purchase Confirm service by subscribing to one or more of the following service levels: Silver, Gold, or Platinum.

991.121 Silver Subscription. The Silver subscription has a term of three months and includes the use of one identification (ID) code and up to 15 million scans. Subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first. Subscribers may license the use of additional scans in blocks of 2 million scans at any time prior to expiration of the subscription.

991.122 Gold Subscription. The Gold subscription has a term of twelve months and includes the use of one ID code and up to 50 million scans. Subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first. Subscribers may license the use of additional scans in blocks of 6 million scans at any time prior to expiration of the subscription.

991.123 Platinum Subscription. The Platinum subscription has a term of twelve months and includes the use of three ID codes and unlimited scans. Subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first.

**991.2 Availability**

991.21 Confirm service is available to subscribers authorized by the Postal

Service under schedule 991 for automation compatible mail entered under the following classification schedules:

**Classification Schedule**

a. First-Class Mail, including Priority	210
b. Standard Mail	310
c. Periodicals	410
d. Package Services	510

**991.3 Mailer Requirements**

991.31 Mailers must become Confirm subscribers by applying to, and being authorized by the Postal Service. Authorization requires that a customer demonstrate the capabilities of producing mailpieces with Confirm-compatible barcodes and, for Destination Confirm, providing electronic notice of entering Confirm mail prior to or contemporaneous with mail entry, all as specified by the Postal Service.

991.32 Qualifying mail must bear PLANET barcodes as specified by the Postal Service.

**991.4 Other Services**

991.41 Confirm neither precludes nor requires any other special services.

**991.5 Fees**

991.51 The fees for Confirm are set forth in Fee Schedule 991.

991.52 A Gold subscription may be upgraded to a Platinum subscription at any time prior to the expiration of the Gold subscription by paying the difference in the respective subscription fees. Upgrading does not extend the term of the underlying subscription.

## Participants and Counsel

Alliance of Nonprofit Mailers (ANM)  
David M. Levy

American Postal Workers Union, AFL-CIO (APWU)  
Susan L. Catler

Association for Postal Commerce (PostCom)  
Ian D. Volner  
N. Frank Wiggins

Douglas F. Carlson (Carlson)\*  
Douglas F. Carlson

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United States Postal Service (Postal Service)  
Daniel J. Foucheaux, Jr.  
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\* Limited Participant

Witnesses

Paul Bakshi	USPS-T-1
Joe Lubenow	USPS-T-2
Norma B. Nieto	USPS-T-3
Beth B. Rothschild	USPS-T-4
James M. Keifer	USPS-T-5